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IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (CG)

S.A.NO. 230 /2003 Single Bench

APPELLANT

Shyamta Prasad Sahu, son of Shri Bhagwat Prasad, aged about 54 years, Ex Pond Moharrir, Mahmand, Kanji House, Bilaspur (Chhattisgarh).

VERSUS

RESPONDENTS

1) State of Chhattisgarh, through : District Collector, Bilaspur (Chhattisgarh).

2) Chief Executive Officer, Janpad Panchayat, Bilha, Distt. Bilaspur (Chhattigarh).

P. R. No. 3211/03
Presented by Shri P. P. Sahu
dated 16.10.03

APPEAL UNDER SECTION 100 OF THE CODE OF CIVIL PROCEDURE 1908

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक S.A. No. 230/2003 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

23.02.2007

Appellant by Shri P.P. Sahu, Advocate.

State by Shri Akhil Agrawal, P.L.

Respondent No.2 by Shri Alok Bakshi, Advocate.

Heard on admission.

Heard on M.(C).P.No.369/2007 which is an application under Order-41 Rule-27 of C.P.C.

The document sought to be filed pertains to year-1974 and has no nexus with the termination of the appellant vide order dated 07-10-1980. The application is dismissed.

The appellant was appointed by the Janpad Sabha, Bilaspur as a Special Pond Moharrir, Mahmad on purely temporary basis till further orders on 15.09.70. His services were terminated by the C.E.O. Janpad Panchayat, Bilha, District Bilaspur by an order dated 07.10.1980 which reads as under :-

"कार्यालय जनपद पंचायत बिल्हा
जिला बिलासपुर म.प्र.
आदेश

क्रमांक 329/पं0बि0/कांजी0/80 बिल्हा, दिनांक 7.10.80

जनपद पंचायत बिल्हा के प्रस्ताव क्रमांक 7, दिनांक 4.10.80 के निर्णयानुसार श्री श्यामता प्रसाद साहू स्पेंशल पौन्ड मोहर्रिर (कन्टेन्जेन्ट) कांजी हॉस महमद की सेवाऐं तत्काल प्रभाव से समाप्त की जाती है।

सही/–
मुख्य कार्यपालन अधिकारी
जनपद पंचायत बिल्हा
जिला–बिलासपुर (म.प्र.)"

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Reliance was placed by the learned counsel for the appellant on **Mathew P. Thomas v. Kerala State Civil Supply Corpn. Ltd.and others 2003 AIR SCW 1230** while contending that in order to arrive at a conclusion whether the order of termination is simpliciter or punitive, both the Courts below ought to have looked at the background and attending circumstances which show that misconduct was the real basis and design to terminate the service of the appellant.

However, in the case law cited, despite the fact that the order of termination contained certain reasons for terminating the service of the probationer, the Apex Court held that the order was of termination simpliciter and since no enquiry was held, no findings were arrived at and the employer was also not inclined to continue the employee against whom there were complaints, it was held that the allegations may provide a motive and not the foundation, and therefore, the order of termination simpliciter would be valid. Thus, the case law cited does not help the appellant in any manner since in the present case also no departmental enquiry was initiated against the appellant.

Both the Courts below have recorded a concurrent finding that the appellant herein did not hold a civil post and was not entitled to the protection of Article 311 of the Constitution of India. It was also held that the appellant herein held a purely contingent post, till further orders. The order dated 07.10.1980 terminating the services of the appellant is an order of termination simpliciter and is neither stigmatic nor punitive in nature.

In the above circumstances, both the Courts below were justified in not lifting the veil and probing whether the order dated 07.10.1980 was punitive in nature.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ....SA 230/03 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	As a result, the appellant herein was rightly disentitled to the relief sought for by both the Courts below. In this view of the matter, no substantial question of law arises for adjudication in this appeal. The appeal is dismissed. There shall be no order as to costs. **Sd/-** **Dilip Raosaheb Deshmukh** **Judge**	

P.T.O.